

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS,) 6 Plaintiff,) 7 vs.) CASE NUMBER: 8 FLORIDA TRANSFORMER,) 3:05-CV-962-T 9 EDWARD NEAL THOMPSON,) 10 et al.,) 11 Defendants.) 12 13 DEPOSITION OF FRANKLIN SCOTT SEAY 14 In accordance with Rule 5(d) of 15 The Alabama Rules of Civil Procedure, as 16 Amended, effective May 15, 1988, I, Cindy 17 Weldon, am hereby delivering to Henry L. 18 Penick, the original transcript of the oral 19 testimony taken on the 17th day of July, 20 2006, along with exhibits. 21 Please be advised that this is the 22 same and not retained by the Court Reporter, 23 nor filed with the Court.</p>	<p style="text-align: right;">Page 3</p> <p>1 AGREED that the signature to and the reading 2 of the deposition by the witness is waived, 3 the deposition to have the same force and 4 effect as if full compliance had been had 5 with all laws and rules of Court relating to 6 the taking of depositions. 7 IT IS FURTHER STIPULATED AND 8 AGREED that it shall not be necessary for 9 any objections to be made by counsel to any 10 questions, except as to form or leading 11 questions, and that counsel for the parties 12 may make objections and assign grounds at 13 the time of trial, or at the time said 14 deposition is offered in evidence, or prior 15 thereto. 16 IT IS FURTHER STIPULATED AND 17 AGREED that notice of filing of the 18 deposition by the Commissioner is waived. 19 20 21 22 23</p>
<p style="text-align: right;">Page 2</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS,) 6 Plaintiff,) 7 vs.) CASE NUMBER: 8) 3:05-CV-962-T 9 FLORIDA TRANSFORMER,) 10 EDWARD NEAL THOMPSON,) 11 et al.,) 12 Defendants.) 13 14 S T I P U L A T I O N 15 IT IS STIPULATED AND AGREED, by 16 and between the parties through their 17 respective counsel, that the deposition of 18 FRANKLIN SCOTT SEAY, may be taken before 19 Cindy Weldon, Certified Shorthand Reporter, 20 Commissioner and Notary Public, at 732 North 21 9th Street, DeFuniak Springs, Florida, on 22 July the 17th, 2006 at 10:50 a.m. 23 IT IS FURTHER STIPULATED AND</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFF: 4 MR. HENRY L. PENICK 5 THE PENICK BUILDING 6 319 - 17TH STREET NORTH, SUITE 200 7 BIRMINGHAM, ALABAMA 35203 8 9 FOR THE DEFENDANT: 10 MR. RICHARD BROUGHTON 11 2000 INTERSTATE PARK DRIVE 12 SUITE 204 13 MONTGOMERY, ALABAMA 36109 14 15 16 17 18 19 20 21 22 23</p> <div style="text-align: right; border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">EXHIBIT K</div>

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<p>1 bit more than that.</p> <p>2 Q. About a fourth then? Okay. Any</p> <p>3 other -- And you can show that he made a</p> <p>4 gesture.</p> <p>5 A. Sorry about that.</p> <p>6 Q. That was an okay, I guess?</p> <p>7 A. Okay.</p> <p>8 Q. Was there any other seminar or</p> <p>9 classroom or any kind of training that you</p> <p>10 went through to familiarize yourself with</p> <p>11 DOT regulations or Federal Motor Carrier</p> <p>12 Safety regulations?</p> <p>13 A. Well, the primary training was --</p> <p>14 As I said, we had Roland Brown come down and</p> <p>15 I met with him, he and some of our other</p> <p>16 management team.</p> <p>17 We spent, I don't know, four,</p> <p>18 maybe more than four hours in a conference</p> <p>19 with him discussing DOT and our DOT program.</p> <p>20 Q. Other than that, then that's all</p> <p>21 the training you've had on DOT regulations;</p> <p>22 is that correct?</p> <p>23 A. That's correct.</p>	<p>1 came with the company.</p> <p>2 Q. Do you know whether or not it has</p> <p>3 gone through any modifications?</p> <p>4 A. None that I'm aware of.</p> <p>5 Q. When you say when you first came</p> <p>6 with the company, that would be in --</p> <p>7 A. February of 2006 -- I mean, 2001.</p> <p>8 Q. All right. Did you review this</p> <p>9 application before hiring?</p> <p>10 A. Yes, I did.</p> <p>11 Q. And then on the employers, if I'm</p> <p>12 reading it correctly, did it say list below</p> <p>13 the last three employers?</p> <p>14 A. That's correct.</p> <p>15 Q. Did Mr. Thompson list his last</p> <p>16 three employers?</p> <p>17 A. Apparently he did not.</p> <p>18 Q. Did he list his last employers for</p> <p>19 -- Well, in this exhibit, what period of</p> <p>20 time is covered by the two employers that he</p> <p>21 did list?</p> <p>22 A. Starting in 2000, January, 2000</p> <p>23 until October 2003 with McLane and it looks</p>
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<p>1 Q. Among the persons you hired, one</p> <p>2 of them was Neal Thompson; is that right?</p> <p>3 A. That is correct.</p> <p>4 Q. Let me show you what we'll mark as</p> <p>5 Plaintiff's Exhibit 1 to your deposition.</p> <p>6 (Whereupon, Plaintiff's Exhibit</p> <p>7 No. 1 was marked for identification.)</p> <p>8 Q. Can you tell me what's marked for</p> <p>9 identification as Plaintiff's Exhibit 1?</p> <p>10 A. Edward Neal Thompson's application</p> <p>11 for employment.</p> <p>12 Q. All right. And the date of this</p> <p>13 application is?</p> <p>14 A. August 6, 2004.</p> <p>15 Q. Okay. And is this one of the</p> <p>16 forms that you got from Trans Products or is</p> <p>17 this a separate form?</p> <p>18 A. This is our application for</p> <p>19 employment that's been in place for some</p> <p>20 time.</p> <p>21 Q. Do you know how long this</p> <p>22 application has been in place?</p> <p>23 A. I do not. It was in place when I</p>	<p>1 like November of '03 -- but I can't tell.</p> <p>2 It's not very legible -- until the present</p> <p>3 time of the application with Dart.</p> <p>4 Q. All right. What period of time</p> <p>5 then, the total time covered is from --</p> <p>6 starting with McLane through Dart, is that</p> <p>7 2003 through 2000 what?</p> <p>8 A. I'm sorry?</p> <p>9 Q. What period of time is covered by</p> <p>10 these two employments?</p> <p>11 A. Well, since I can't absolutely</p> <p>12 make out what Dart -- the date he has there,</p> <p>13 it appears January of 2000 through August</p> <p>14 2004. But I'm not sure about exactly what</p> <p>15 that date is, the beginning date with Dart.</p> <p>16 Q. Would that be about a four year</p> <p>17 period?</p> <p>18 A. Correct.</p> <p>19 Q. Does it list his employers for the</p> <p>20 past seven years?</p> <p>21 A. No, sir.</p> <p>22 Q. We were talking before about the</p> <p>23 kind of truck that Mr. Thompson was</p>

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<p>1 driving. And I will show again what we've</p> <p>2 marked as the accident report. We'll call</p> <p>3 this Plaintiff's Exhibit No. 2 to your</p> <p>4 deposition.</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 No. 2 was marked for identification.)</p> <p>7 Q. On the fifth page of that -- Well,</p> <p>8 let's go to the sixth page. I think it</p> <p>9 describes the truck that Thompson was</p> <p>10 driving at the time; is that right?</p> <p>11 Does it describe the gross weight</p> <p>12 of the tractor and trailer that he was</p> <p>13 driving at that time in the upper left?</p> <p>14 A. I see that. I'm just making sure</p> <p>15 this is the information for the Florida</p> <p>16 Transformer vehicle. Yes.</p> <p>17 Q. Okay. And is the gross weight of</p> <p>18 that vehicle seventy-two thousand pounds?</p> <p>19 A. That's what's on the report.</p> <p>20 Q. Do you have an idea what the</p> <p>21 weight of that vehicle is when it's not</p> <p>22 loaded, the tractor and trailer portion?</p> <p>23 A. I do not.</p>	<p>1 MR. PENICK: No, that's not the</p> <p>2 one I meant to mark. Let me withdraw 3.</p> <p>3 Q. But when you got his -- When you</p> <p>4 sent for his driving history, did he</p> <p>5 independently give you a list of his</p> <p>6 violations other than signing -- or just</p> <p>7 signing a form for you to get his driver's</p> <p>8 record?</p> <p>9 A. We got the DOT required previous</p> <p>10 twelve month violations form.</p> <p>11 Q. Do you know whether or not DOT</p> <p>12 requires only a list of violations for the</p> <p>13 past twelve months?</p> <p>14 A. It's my understanding incumbent</p> <p>15 drivers you are suppose to annually have</p> <p>16 them give you a list of violations for the</p> <p>17 previous twelve months.</p> <p>18 Q. What do you mean by incumbent</p> <p>19 drivers?</p> <p>20 A. Drivers who are already working</p> <p>21 for you.</p> <p>22 Q. I'm going back to the hiring</p> <p>23 process of Edward Thompson. When he wasn't</p>
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<p>1 Q. Okay. You also had -- Did you</p> <p>2 have him to list his -- or ask for him to</p> <p>3 give you his driving record?</p> <p>4 A. We did. He signed a release form,</p> <p>5 the standardized form for the State of</p> <p>6 Alabama. And we requested him to obtain his</p> <p>7 three year driving history.</p> <p>8 Q. Did you seek -- Well, let me just</p> <p>9 show what we'll mark as Plaintiff's Exhibit</p> <p>10 3 to your deposition.</p> <p>11 Q. Can you tell me what's marked as</p> <p>12 Plaintiff's Exhibit 3?</p> <p>13 A. The Alabama Department of Public</p> <p>14 Safety driver's license abstract on Edward</p> <p>15 Neal Thompson.</p> <p>16 Q. So when Mr. Thompson applied, did</p> <p>17 he list for you any -- on any document his</p> <p>18 violations --</p> <p>19 MR. BROUGHTON: Henry, the one you</p> <p>20 gave me is September the 12th, 2005.</p> <p>21 MR. PENICK: You're right.</p> <p>22 MR. BROUGHTON: I don't know if</p> <p>23 that's the one you meant to mark.</p>	<p>1 already driving for you when he applied, did</p> <p>2 you -- I think you said you sought his</p> <p>3 previous three year driving history; right?</p> <p>4 A. Correct.</p> <p>5 Q. And what I'm asking is, did he</p> <p>6 independently fill out any form telling you</p> <p>7 what his driving history was?</p> <p>8 A. He did not independently fill out</p> <p>9 a form saying what it was. But he filled</p> <p>10 out the form granting us access to his three</p> <p>11 year driving history.</p> <p>12 Q. Did he sign a form granting you</p> <p>13 access to a three year driving history or</p> <p>14 did he just sign a form granting you access</p> <p>15 to his driving history?</p> <p>16 A. Signed a form granting us access</p> <p>17 to his driving history.</p> <p>18 Q. And then when you sent it off to</p> <p>19 the State of Alabama, what did they return</p> <p>20 to you?</p> <p>21 A. They returned what appeared to be</p> <p>22 his three year driving history.</p> <p>23 Q. Do you know whether or not the</p>

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<p style="text-align: right;">Page 21</p> <p>1 Federal Motor Carrier Safety regulations 2 require more than three years driving 3 history? 4 A. Not to my knowledge. 5 Q. The Florida Transformer, I think 6 you said, it hauls transformers; is that 7 right? 8 A. Yes, sir. 9 Q. Is that considered hazardous 10 material? 11 A. The repaired transformers that we 12 have refurbished would not be considered 13 hazardous material. They are only refilled 14 with mineral oil. 15 There is some old equipment out 16 there that carries PCB's, that if they are 17 known PCB's could be considered or could -- 18 placarding would be required. But on new 19 transformers, they are not hazardous. 20 Q. Okay. But you all also haul old 21 transformers back as well as haul out new 22 ones; right? 23 A. Correct.</p>	<p style="text-align: right;">Page 23</p> <p>1 A. A statement of violations on 2 Edward Neal Thompson dated 8-13, 2004. 3 Q. And for what period of time does 4 this cover? 5 A. The previous twelve months, past 6 twelve months. 7 Q. Are you aware of any DOT 8 regulation or either Federal Motor Carrier 9 Safety regulation that requires a list of 10 violations greater than twelve months? 11 A. Would you repeat the question, 12 please. 13 Q. Are you aware of any Federal Motor 14 Carrier Safety regulation or DOT regulation 15 that requires an applicant to list his 16 violations for a period longer than twelve 17 months? 18 A. I'm familiar with the hiring of a 19 new driver of obtaining the three year 20 driving history, yes. 21 Q. And does it -- Do you ever require 22 the drivers themselves to list for you his 23 three year driving history?</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Or refurbished ones? 2 A. Correct. 3 Q. And when you're hauling those old 4 ones that need to be refurbished, do they 5 sometimes contain hazardous material? 6 A. Sometimes they may contain PCB's. 7 But at that stage, it's very complicated 8 between DOT and EPA regulations. 9 But if you're bringing in the 10 equipment for repair, then it's not 11 considered hazardous material if you get it 12 to your shop and you then discover there's 13 some level of PCB's. 14 If you pick up known PCB's, it 15 would be -- when we say hazardous, that 16 means we would have to placard. 17 Q. All right. Let me show you what 18 we'll mark as Plaintiff's Exhibit -- we'll 19 substitute the new 3 to your deposition. 20 (Whereupon, Plaintiff's Exhibit 21 No. 3 was marked for identification.) 22 Q. Tell me what's marked for 23 identification as Plaintiff's 3.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I haven't, no. 2 Q. And is this a standard form you 3 use when employing drivers, that you only 4 require them to list their violations for 5 twelve months? 6 A. Correct. 7 Q. Did you ask him to list for you 8 whether or not he had had any suspensions? 9 A. No, sir. 10 Q. When he came to you, did he 11 already have a driving certificate or a 12 certificate to show that he had completed 13 the driver's test? 14 A. I'm not aware of an independent 15 certificate. He certainly presented us a 16 valid driver's license. 17 Q. Okay. All right. When he came, 18 did you administer to him a driver's test? 19 A. Yes, we did. 20 Q. All right. And when did you 21 administer that test? 22 A. The formal test began on September 23 2nd of 2004 and was completed on -- I</p>

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<p>1 believe the date was September 7th, 2004.</p> <p>2 Q. Let me show you what we've marked</p> <p>3 as Plaintiff's Exhibit 4 to your</p> <p>4 deposition.</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 No. 4 was marked for identification.)</p> <p>7 Q. Can you tell me what Plaintiff's</p> <p>8 Exhibit 4 is?</p> <p>9 A. Driver road test for driver Neal</p> <p>10 Thompson.</p> <p>11 Q. And what is the date of that</p> <p>12 certificate?</p> <p>13 A. September 2nd, '04.</p> <p>14 Q. Was it completed on September the</p> <p>15 2nd, '04?</p> <p>16 A. To the best of my knowledge, it</p> <p>17 was not.</p> <p>18 Q. Did Thompson have this</p> <p>19 certification on September the 2nd when he</p> <p>20 had this accident that we're here about</p> <p>21 today?</p> <p>22 A. He did not have a complete driver</p> <p>23 road test on September the 2nd.</p>	<p>1 A. Did I use a third party?</p> <p>2 Q. Yes.</p> <p>3 A. No.</p> <p>4 Q. Okay. Did you -- Did it come to</p> <p>5 your attention that Thompson had been</p> <p>6 involved in an accident?</p> <p>7 A. I'm sorry. Can I go back to the</p> <p>8 last point?</p> <p>9 Q. Yes.</p> <p>10 A. I did -- I don't know if you would</p> <p>11 call this an independent or third party.</p> <p>12 His driving -- excuse me. Our worker's comp</p> <p>13 carrier did run his MVR to give me notice of</p> <p>14 whether he was qualified or disqualified</p> <p>15 under their standards.</p> <p>16 Q. Did the worker's comp carrier</p> <p>17 bring to your attention the fact that</p> <p>18 Thompson had been involved in an accident?</p> <p>19 A. My understanding, because of</p> <p>20 privacy issues, they don't give me any</p> <p>21 specific details. But they will tell me</p> <p>22 whether by worker's comp standards the</p> <p>23 driver is or is not eligible to drive.</p>
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<p>1 Q. Is it the policy of Florida</p> <p>2 Transformer to give a driver a road test</p> <p>3 before allowing him to drive?</p> <p>4 A. Before allowing him to drive</p> <p>5 independently on his own, yes.</p> <p>6 Q. Okay. And on September the 2nd,</p> <p>7 was Thompson engaged in a road test when he</p> <p>8 had this accident?</p> <p>9 A. He was.</p> <p>10 Q. Did he complete the road test on</p> <p>11 September the 2nd?</p> <p>12 A. No, he did not.</p> <p>13 Q. When did he complete the road</p> <p>14 test?</p> <p>15 A. I believe the date is September</p> <p>16 the 7th.</p> <p>17 Q. And that was after this accident?</p> <p>18 A. That was after the accident.</p> <p>19 Q. Did you get a report -- First of</p> <p>20 all, did you hire an independent</p> <p>21 investigative firm to investigate Thompson's</p> <p>22 driving history or his employment history?</p> <p>23 Did you engage in --</p>	<p>1 Q. Did Thompson bring to your</p> <p>2 attention when he was hired the fact that he</p> <p>3 had been involved in an accident while</p> <p>4 driving for Dart Transit Company on June 14,</p> <p>5 2004, only three -- less than three months</p> <p>6 before this accident?</p> <p>7 A. No, sir.</p> <p>8 Q. He didn't put it on his</p> <p>9 application form, did he?</p> <p>10 A. He did not.</p> <p>11 Q. Okay. And when you hired him, you</p> <p>12 didn't know about his accident with Dart</p> <p>13 Transportation, did you?</p> <p>14 A. No, I did not.</p> <p>15 Q. Let me show you what we've marked</p> <p>16 for identification as Plaintiff's Exhibit 5.</p> <p>17 (Whereupon, Plaintiff's Exhibit</p> <p>18 No. 5 was marked for identification.)</p> <p>19 Q. Can you tell me what's Exhibit 5?</p> <p>20 A. This is a form from Dart Transit</p> <p>21 listing Mr. Thompson's driving history with</p> <p>22 them, accidents and looks like substance</p> <p>23 abuse requirements.</p>

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<p>1 Q. Okay. And does it indicate that 2 this accident occurred on June 14, 2004? 3 A. It does. 4 Q. And what description does it give 5 of the accident? 6 A. Number one struck number two in 7 rear. 8 Q. Did it indicate whether or not it 9 was DOT recordable? 10 A. It says yes. 11 Q. Did you learn later that Thompson 12 was vehicle number one that struck number 13 two in the rear? 14 A. I learned later of the details of 15 the accident. And I guess I would have 16 deduced that he was number one. 17 Q. Okay. Did he in his application 18 process list this accident as being the 19 accident that he had been involved in, in 20 the past twelve months? 21 A. No, sir. 22 Q. Was it listed among the accidents 23 he was involved in, in the past three years?</p>	<p>1 that it was a sixty-nine in a forty-five 2 mile per hour zone? 3 A. That sounds correct. Again, I 4 don't recall the specifics of it. 5 Q. Is there anything significant 6 about doing sixty-nine in a forty-five mile 7 per hour zone? 8 A. Could you clarify significant? 9 Q. Is there anything significant to 10 you about doing sixty-nine in a forty-five 11 mile per hour zone? 12 A. It's breaking the speed limit. 13 Q. Let me show you what we've marked 14 for identification as Plaintiff's Exhibit 6. 15 (Whereupon, Plaintiff's Exhibit 16 No. 6 was marked for identification.) 17 Q. Can you tell me what this document 18 is? 19 A. Driver history abstract as of 20 11-22, 2005. It looks like driver Edward 21 Neal Thompson. 22 Q. When you got your driver's 23 abstract on Thompson as we just discussed,</p>
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<p>1 A. No, sir. 2 Q. He didn't tell you about it? 3 A. No, sir. 4 Q. Thompson didn't? 5 A. No, sir. 6 Q. When did it come to your attention 7 about this accident? 8 A. It would have been sometime 9 shortly after the date of this form, which 10 is 9-9-04. I don't remember exactly. 11 Q. And so you learned of the Dart 12 accident after Thompson had had the accident 13 with Morris? 14 A. Correct. 15 Q. When you received a three year 16 history on Morris -- I mean -- sorry -- on 17 Thompson, on that three year history, did it 18 include an accident -- I'm sorry -- did it 19 include a speeding ticket on May 9, 2003? 20 A. That sounds correct. I do 21 remember there was one speeding violation. 22 But I don't remember the specifics. 23 Q. Did it give you the information</p>	<p>1 you do recall having the sixty-nine in a 2 forty-five mile per hour zone on your 3 report? 4 A. I recall a speeding violation. 5 Q. Do you know whether or not this 6 other speeding violation of May 25th, 1999 7 was on the report? 8 A. I do not recall that one. 9 Q. Okay. I take it then that since 10 you got a three year history in 2004, that 11 the August 29, 2002 accident was on that 12 report; right? 13 A. Would you repeat that. 14 Q. Well, was the August 29, 2002 15 accident report on your three year driving 16 history? 17 A. There was an accident report cited 18 on that driving history. But I don't 19 remember the date. 20 Q. Did you do any independent 21 examination of the accident that occurred on 22 August 29, 2002 that Thompson was involved 23 in? It says Dothan, Houston County.</p>

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<p>1 A. If that is the one that showed up 2 on our three year accident -- excuse me -- 3 our three year MVR that we had on Thompson, 4 I'm quite sure it was discussed. 5 I do know the details of it. But 6 I cannot tell you exactly the conversation 7 that transpired whenever we were reviewing 8 his MVR. 9 Q. And you didn't have that 10 information at the time you hired him, did 11 you? 12 A. I had his MVR when we hired him, 13 yes. 14 Q. Did that MVR come back to you 15 after the date of hire? 16 A. Not to my knowledge. 17 Q. Okay. Did you do any independent 18 investigation about his driving record other 19 than just sent off for his three year 20 driving history? 21 A. As previously stated, with the 22 worker's comp carrier. 23 Q. But the worker's comp carrier was</p>	<p>1 because of privacy issues. They basically 2 give me an eligible or not eligible ruling 3 on each driver applicant. 4 Q. Okay. So other than the order the 5 driver's history and the investigation done 6 by worker's comp, you didn't do any other 7 independent investigation of his driving 8 history, did you? 9 A. No, sir. 10 Q. Did he ever tell you that he had 11 been disqualified for driving in August of 12 -- I'm sorry. That was in April of 2004, 13 within a year of his -- I mean, within five 14 months of his hiring at Florida Transformer? 15 A. Disqualified on what basis? 16 Q. Medical basis. 17 A. I am familiar with his medical 18 history and the medical examination of April 19 2004. 20 Q. Let me show you what we'll mark 21 for identification as Plaintiff's Exhibit 7 22 to your deposition. 23 (Whereupon, Plaintiff's Exhibit</p>
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<p>1 done after he was hired; is that right? 2 A. No. 3 Q. Well, wouldn't the worker's comp 4 carrier get involved only if you were going 5 to take him on as an employee? 6 A. Correct. That is one of the 7 conditions of employment, that he be 8 eligible through our worker's comp. If he's 9 not eligible with worker's comp, he's not 10 eligible to drive. 11 So he gives them -- I have a slip 12 that he signs, our drivers sign giving the 13 worker's comp carrier authorization to do 14 the MVR. 15 Q. And do you know whether or not 16 that investigation was completed before you 17 hired him? 18 A. Yes. 19 Q. Did the worker's comp carrier tell 20 you about any disqualifying reason for not 21 hiring Thompson? 22 A. No, sir. As previously stated -- 23 and they have told me in the past -- it's</p>	<p>1 No. 7 was marked for identification.) 2 Q. Can you tell me what's Plaintiff's 3 Exhibit 7? 4 A. This is the medical examiner's 5 certificate in long form, DOT medical 6 information report on Edward Neal Thompson 7 from April of 2004. 8 Q. All right. When did you -- Did 9 you ever see these documents before hiring 10 him? 11 A. Yes. These hiring is -- offer of 12 employment is conditional on having a valid 13 medical certificate. 14 Q. When did you get these documents? 15 A. I don't remember the specific 16 date. But it would have been prior to 17 employment. 18 Q. And did you know or did you review 19 these documents before hiring him? 20 A. I did. 21 Q. Did you look at his -- page four 22 of that document where he was temporarily 23 disqualified from driving?</p>

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1 A. I was familiar with that.
 2 Q. Did you have any discussion with
 3 Mr. Thompson prior to hiring?
 4 A. As I recall, he explained, as he
 5 has explained in his previous deposition,
 6 that he was not real diligent with his
 7 medications and he had an elevated blood
 8 sugar.
 9 And he reported back a couple of
 10 days later and his blood sugar was within
 11 range and he was given a one year medical
 12 certificate.
 13 Q. Did you do any independent
 14 verification of this information contained
 15 in these medical records identified as
 16 Plaintiff's Exhibit 7?
 17 A. No independent verification.
 18 Q. Did you do anything to confirm
 19 whether he was back on medication?
 20 A. No, I didn't.
 21 Q. Did you check with his doctor to
 22 see whether or not he was, in fact, taking
 23 his medication?

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1 A. I did not. I'm not sure that the
 2 Americans with Disabilities Act would allow
 3 me to do that. But no, I didn't.
 4 Q. And the pre -- Did you do a
 5 pre-hiring physical with Mr. Thompson?
 6 A. He did a pre-employment drug
 7 screen.
 8 Q. Did he do a pre-employment
 9 physical?
 10 A. No, sir.
 11 Q. I believe you said the other day
 12 that he was -- at least Mr. Thompson said
 13 the other day that he was sent to -- I think
 14 he said Dr. Gonzalez?
 15 A. Garcia.
 16 Q. Garcia. Did Dr. Garcia do a
 17 pre-employment physical?
 18 A. Dr. Garcia did a pre -- or Dr.
 19 Garcia's office did a pre-employment drug
 20 screen. Mr. Thompson's subsequent physical
 21 with Florida Transformer, which would have
 22 been around the time of the expiration on
 23 the one he brought us, was done by Dr.

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1 Garcia.
 2 Q. Okay. But what I'm asking you is,
 3 when you first was hiring him, did you ask
 4 him to submit to a pre-employment physical?
 5 A. No, sir.
 6 Q. Do you have any idea what was
 7 Thompson's physical condition on September
 8 the 2nd, 2004?
 9 A. No, sir. I did not see Mr.
 10 Thompson. I'm not sure that I saw him at
 11 any point on September the 2nd. It may have
 12 been the 3rd. But if it was the 2nd, it was
 13 late in the day.
 14 Q. Do you have any idea what was his
 15 medical condition on September the 2nd,
 16 2004?
 17 A. No, sir. I'm not qualified to
 18 speak to that.
 19 Q. And your testimony is -- Is it
 20 your testimony here today that you had been
 21 informed by the medical records identified
 22 in Plaintiff's Exhibit 7 that Mr. Thompson
 23 had been temporarily disqualified due to his

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1 diabetes in April of 2004 and that when you
 2 hired him in September of 2004, you did not
 3 do a pre-employment physical examination of
 4 him?
 5 A. Correct.
 6 Q. Do you know the consequence --
 7 Well, first of all, I guess you can tell
 8 from -- can you tell from looking at
 9 Plaintiff's Exhibit 7 that diabetes can be a
 10 disqualifying factor?
 11 A. Yes, sir.
 12 Q. Do you know why that is so?
 13 A. I can't speak to that
 14 specifically. I mean, obviously diabetes is
 15 a health issue. For those reasons, the
 16 Department of Transportation does put
 17 limitations on it. But I don't know the
 18 effects or consequences of diabetes.
 19 Q. Have you seen anybody -- the
 20 physiological effects of anybody whose blood
 21 sugar is out of whack?
 22 A. I can't say that I have knowingly
 23 observed that.

10 (Pages 37 to 40)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 41</p> <p>1 Q. Do you know that when a person's 2 blood sugar is out of whack, it can produce 3 a condition that's very similar to 4 intoxication? 5 A. I did not know it could produce an 6 intoxicating effect, no. 7 Q. In terms of the person's reaction 8 time, his speech, his ability to maintain 9 his equilibrium equal, all of those things? 10 Did you know that? 11 A. I didn't know that. I would not 12 be surprised if it had those kinds of 13 effects. But I can't speak from experience. 14 Q. Is there any kind of medical 15 precautions or safety guards you took to 16 confirm with Mr. Thompson that he was taking 17 his medication on a regular basis? 18 A. Other than Mr. Thompson explaining 19 his disqualification in April and that he 20 was taking his medication, no. 21 Q. And you just accepted his 22 representation that he was taking his 23 medication, you didn't do any independent of</p>	<p style="text-align: right;">Page 43</p> <p>1 A. She is not a M.D. or a D.O. 2 Q. Okay. And for sure, she's not an 3 endocrinologist; right? 4 A. Probably not. 5 Q. Okay. Does Florida Transformer 6 have a health insurance plan? 7 A. We do. 8 Q. And who is it administered 9 through? 10 A. Blue Cross Blue Shield of Florida. 11 Q. And does it include a provision to 12 pay for medicines? 13 A. The current plan that we have has 14 four levels of coverage. And three of the 15 four do have prescription co-pays. 16 Q. And once hired by Florida 17 Transformer, how soon after employment did 18 Mr. Thompson receive a medical insurance 19 card? 20 A. He would have been eligible for 21 health insurance after he completed the 22 ninety day probationary period. Then the 23 beginning the first day of the month</p>
<p style="text-align: right;">Page 42</p> <p>1 that; right? 2 A. His representation and his 3 authorization from Ms. Barbara Elliott. 4 Q. Do you know that Barbara Elliott 5 is an RN? 6 A. She is not. 7 Q. She's not? 8 A. No, sir. 9 Q. Well, do you know that she is what 10 they call a nurse practitioner? 11 A. Correct. 12 Q. And that her highest degree of 13 obtaining, other than being a nurse 14 practitioner, is that of an RN? 15 A. Could you repeat that. 16 Q. Other than being a nurse 17 practitioner, her highest degree of 18 obtaining is an RN? 19 A. No, I did not know that an RN and 20 a nurse practitioner were equivalent. 21 Q. Let's put it this way. For sure, 22 you do know that Barbara Elliott is not a 23 licensed practicing medical doctor?</p>	<p style="text-align: right;">Page 44</p> <p>1 following completion of his ninety day 2 probationary period. 3 Q. And what date would you say was 4 his date of hire? 5 A. His date of hire was I believe 6 August 30th, 2004. It was late August. I 7 believe the 30th was the date. But if I'm 8 missing it a day or two, I stand corrected. 9 Q. Let me show you what we'll mark as 10 Plaintiff's Exhibit 8. 11 (Whereupon, Plaintiff's Exhibit 12 No. 8 was marked for identification.) 13 Q. Let me show you what we've marked 14 as Plaintiff's Exhibit 8 to your 15 deposition. Does that refresh your 16 recollection as his date of hire? 17 A. I would say that confirms his date 18 of hire as August 30th, 2004. 19 Q. And so he would have been eligible 20 then for medical insurance on what date? 21 A. It appears he would have been 22 eligible on December 1st, 2004 if I'm adding 23 forward correctly.</p>

11 (Pages 41 to 44)

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<p style="text-align: right;">Page 69</p> <p>1 licensed or authorized disposal company 2 comes by and picks it up. 3 Q. Do you know whether or not any 4 transformers that Thompson was hauling on 5 this occasion had any PCB oil on it? 6 A. Conclusively that they did not. 7 Q. Is Florida Transformer 8 incorporated? 9 A. Yes, sir. 10 Q. Are you aware of any period of 11 time that it was dissolved? 12 A. I'm not aware of any period of 13 time it was dissolved. I can answer your 14 question this way. As I understand it, the 15 history on Florida Transformer, the company 16 was actually started around 1975 I believe 17 on a very small limited scale. 18 An individual -- and I do not 19 recall his name. But our current owner came 20 on board I believe around 1980 and the 21 company was incorporated at that point in 22 time. 23 Our current owner and this other</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. You didn't take any pictures or 2 any recorded statements or anything, did 3 you? 4 A. I'm not aware of any recorded 5 statements. Scotty Carol did take some 6 pictures, Scotty Carol and Neal. Scotty 7 carried the camera. I'm not sure exactly 8 who took the pictures. 9 MR. PENICK: Are those the 10 pictures that we have already, Richard? 11 MR. BROUGHTON: I think so. I 12 assume we produced them to you. Check and 13 see. If we didn't, we certainly can. 14 Q. We've got some pictures. I just 15 want to know are those the ones that Scotty 16 Carol took? 17 A. Yes. That's the only pictures I 18 have. 19 Q. Do you participate at all in the 20 annual -- Well, first of all, do you inspect 21 the vehicles annually? 22 A. When you say do you, do you mean 23 Florida Transformer?</p>
<p style="text-align: right;">Page 70</p> <p>1 guy whose name escapes me were partners. 2 And I believe it was around 1984 that Mr. 3 Bodie, our current owner, bought out his 4 partner and he has been the owner since. 5 Q. You're not aware of any report of 6 dissolution with the Secretary of State of 7 Florida then; right? 8 A. I'm not aware. 9 Q. All right. Is there anything you 10 know about this accident that we haven't 11 talked about yet? 12 A. I think we've covered it. 13 Q. Did you write up any reports about 14 this accident? 15 A. We filed I believe it was a Form 16 SR-13 that's required by the State. 17 Q. Anything other than that? 18 A. I believe there was just an 19 accident report on Thompson for the worker's 20 comp that was sent to them just describing 21 basically that he had had the automobile 22 accident and what parts of his body was 23 hurting.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Does Florida Transformer inspect 2 its vehicles annually? 3 A. Correct. 4 Q. Do you participate in that in any 5 way? 6 A. Not really. 7 Q. Who's the person that would be 8 most responsible for that? 9 A. Don Carol would be the primary 10 person overseeing the maintenance. 11 Q. Do you know when this truck number 12 11 was last inspected before this accident? 13 A. I believe the last annual was the 14 end of 2003. 15 (Whereupon, Plaintiff's Exhibit 16 No. 10 was marked for identification.) 17 Q. Let me show you what we'll mark as 18 Plaintiff's Exhibit 10 to your deposition. 19 Can you tell me what that is? 20 A. Annual vehicle inspection report 21 on truck number 11 dated 12-29, 2003. 22 Q. And this would have been nine 23 months then before the accident?</p>

18 (Pages 69 to 72)

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<p>1 A. Correct.</p> <p>2 Q. Do you see any defects with this</p> <p>3 truck listed on Plaintiff's Exhibit 10?</p> <p>4 A. Just a quick scanning of it,</p> <p>5 nothing jumps out at me.</p> <p>6 Q. Do you know whether or not there</p> <p>7 have been any subsequent maintenance -- or</p> <p>8 any maintenance done on the vehicle since</p> <p>9 that report?</p> <p>10 A. I think there had been some</p> <p>11 routine type stuff done to the truck. But</p> <p>12 the truck was used very sparingly after the</p> <p>13 annual and before the wreck.</p> <p>14 And as I recall, it had not</p> <p>15 reached the mileage level for an additional</p> <p>16 PM.</p> <p>17 Q. Why was it used so sparingly?</p> <p>18 A. Well, we were -- As I recall, we</p> <p>19 were basically what we'd call down a driver</p> <p>20 for most of that period of time. And this</p> <p>21 truck was just not being utilized.</p> <p>22 Q. Would it be a fair statement that</p> <p>23 if you're going to have one truck out of</p>	<p>1 you?</p> <p>2 A. Not off the top of my head, no.</p> <p>3 Q. Wouldn't that be an important item</p> <p>4 to list on your annual inspection?</p> <p>5 A. It probably should be noted on</p> <p>6 here.</p> <p>7 Q. Let me show you what I have marked</p> <p>8 for identification as Plaintiff's Exhibit</p> <p>9 11.</p> <p>10 (Whereupon, Plaintiff's Exhibit</p> <p>11 No. 11 was marked for identification.)</p> <p>12 Q. Can you tell me what we've marked</p> <p>13 for identification as Plaintiff's 11?</p> <p>14 A. A service history, number 11</p> <p>15 truck. I believe this is an internal</p> <p>16 document that we generate.</p> <p>17 Q. And how long had this truck been</p> <p>18 out of service or used sparingly as you</p> <p>19 described it?</p> <p>20 A. Well, again, just to clarify, the</p> <p>21 truck was never out of service. It was just</p> <p>22 used sparingly. It appears that sometime</p> <p>23 around late 2003 probably up to August 2004</p>
Page 74	Page 76
<p>1 service, that it's not going to be your best</p> <p>2 truck?</p> <p>3 MR. BROUGHTON: Object to the</p> <p>4 form.</p> <p>5 Q. Is that a fair statement?</p> <p>6 A. No, sir, that would not be a fair</p> <p>7 statement in our case. Our trucks -- It</p> <p>8 would not be our best trucks. It would be</p> <p>9 yard trucks.</p> <p>10 Q. But if you had one truck that you</p> <p>11 were going to take out of service, you</p> <p>12 wouldn't take your best truck out of</p> <p>13 service, would you?</p> <p>14 A. Wouldn't take our best truck.</p> <p>15 But, you know, describe best. I'm sure that</p> <p>16 -- This was not our newest truck, no.</p> <p>17 Q. Do you know -- I think it says in</p> <p>18 the accident report this was a 1995</p> <p>19 Peterbilt; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. You don't know how many miles it</p> <p>22 had on it during the time of the annual</p> <p>23 inspection on December the 29th, 2003, do</p>	<p>1 that it was used sparingly.</p> <p>2 Q. Up to what time now?</p> <p>3 A. Around August 2004.</p> <p>4 Q. I know. From when to when,</p> <p>5 though, again?</p> <p>6 A. From approximately -- and I'm</p> <p>7 guessing -- but the fall of '03 through</p> <p>8 August 2004.</p> <p>9 Q. Let's look at the document that I</p> <p>10 have marked as Plaintiff's 11. And I think</p> <p>11 that apparently this report was generated on</p> <p>12 September the 7th, 2004; is that right?</p> <p>13 A. That's when it's dated, yes, sir.</p> <p>14 Q. Okay. You don't have any reason</p> <p>15 to disagree with that, do you?</p> <p>16 A. No, sir.</p> <p>17 Q. All right. And then the first</p> <p>18 item on here says service items from October</p> <p>19 the 21st, 2003 to July 25th, 2004.</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And is that the period of</p> <p>22 time covered by this diagram on this summary</p> <p>23 that's over to the right?</p>

19 (Pages 73 to 76)

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<p>1 Q. Now, of all of the entries that we</p> <p>2 have right now, which, if any, of the</p> <p>3 entries involved either brakes or lights?</p> <p>4 A. You're referring to the entries on</p> <p>5 Exhibit 11?</p> <p>6 Q. The service history and including</p> <p>7 15, which is not on the service history.</p> <p>8 Which, if any, includes brakes or lights</p> <p>9 repair?</p> <p>10 MR. BROUGHTON: Including the</p> <p>11 annual inspection?</p> <p>12 MR. PENICK: Well, I'll let him</p> <p>13 answer that. I don't know if the annual</p> <p>14 inspection was any repair at all.</p> <p>15 MR. BROUGHTON: Oh, you're asking</p> <p>16 him what was repaired, not what was checked</p> <p>17 or inspected.</p> <p>18 A. According to these records, brake</p> <p>19 work was done on the 10-21-03 servicing.</p> <p>20 Left rear wheel seal work was done on the</p> <p>21 7-25-04 servicing. Then the annual</p> <p>22 inspection, I am very confident does address</p> <p>23 brakes.</p>	<p>1 cost of parts and all, it's hard to imagine</p> <p>2 that that would have left a big bill for the</p> <p>3 lights.</p> <p>4 Perhaps this answers it here. If</p> <p>5 this is a breakdown of his parts, it looks</p> <p>6 like he's got six dollars and ninety cent</p> <p>7 for a light and a dollar sixty-eight. I</p> <p>8 would only assume those must be some sort of</p> <p>9 bulb. But I'd --</p> <p>10 Q. I'm sorry. Go ahead.</p> <p>11 A. I'd just say perhaps a cab light.</p> <p>12 Q. Do you see the word lights on</p> <p>13 Plaintiff's 14?</p> <p>14 A. I do.</p> <p>15 Q. And do you know what kind of</p> <p>16 lights those were right there?</p> <p>17 A. I do not.</p> <p>18 Q. Okay. But for certain, the only</p> <p>19 brake work you show is brake work that</p> <p>20 occurred on October 21st, 2003; right?</p> <p>21 A. That's the only brake work I see</p> <p>22 on this exhibit.</p> <p>23 Q. And that's about over ten months</p>
Page 90	Page 92
<p>1 Q. Well, we're talking about repairs</p> <p>2 now. You don't see any repairs on the</p> <p>3 annual inspection; right?</p> <p>4 A. I do not see any repairs, no.</p> <p>5 Q. And then on the July 25th, '04</p> <p>6 where the left rear wheel seal was replaced,</p> <p>7 that did not include any brake work; right?</p> <p>8 A. I do not know.</p> <p>9 Q. All right. But on that -- on July</p> <p>10 25th, it did include some repair to the</p> <p>11 light; right?</p> <p>12 A. Yes.</p> <p>13 Q. And you don't know what that</p> <p>14 repair was, do you?</p> <p>15 A. I do not know, no.</p> <p>16 Q. Does Plaintiff's 14 shed any light</p> <p>17 in terms of what kind of repair was done to</p> <p>18 the lights?</p> <p>19 A. This is entirely speculation. But</p> <p>20 on Exhibit 14 it said the parts for a total</p> <p>21 of forty-seven dollars and thirty-five</p> <p>22 cents. And if he's replacing left rear</p> <p>23 wheel seal, with my limited knowledge of the</p>	<p>1 prior to the accident; right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. More like eleven months; is that</p> <p>4 right? Wouldn't that be about eleven months</p> <p>5 prior to the accident?</p> <p>6 A. Between ten and eleven.</p> <p>7 Q. Okay. Are you aware of any</p> <p>8 adjustment to the brakes after October the</p> <p>9 21st, 2003?</p> <p>10 A. I'm not aware of any.</p> <p>11 Q. Sitting here today, do you know</p> <p>12 how many miles was put on the truck from the</p> <p>13 date the brakes were last replaced on the</p> <p>14 rear drive axle or the rear tires up through</p> <p>15 the date of the accident?</p> <p>16 A. To best of my knowledge, that's</p> <p>17 going to be a figure around five thousand</p> <p>18 miles.</p> <p>19 Q. And how do you come to that</p> <p>20 figure?</p> <p>21 A. From review of some previous fuel</p> <p>22 logs and mileage on the truck.</p> <p>23 Q. What fuel logs or mileage tells</p>

23 (Pages 89 to 92)

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1 you that there was only five thousand miles
2 on the truck from October the 21st, 2003 to
3 September the 4th, 2004?

4 A. Those should be reflected in the
5 logs that you were just given. This would
6 have been the mileage -- this was the last
7 known fueling of that truck before the
8 annual PM.

9 Q. All right. Let's go over this
10 then. You were pointing to Plaintiff's 16.
11 And is this the -- Is this for -- Well, what
12 date is reflected on Plaintiff's 16?

13 A. On 11-21, 2004.

14 MR. BROUGHTON: 2000 what?

15 A. Excuse me. 2003.

16 Q. How do you know that that's 2003?

17 A. Because it was pulled from the
18 2003 records.

19 Q. How do you know that?

20 A. Because I pulled them.

21 Q. Is there anything on here to
22 indicate that this is 2003?

23 A. I do not see that.

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1 Q. It says the driver is Ray Wiggins?

2 A. Correct.

3 Q. Was Ray Wiggins there in 2004?

4 A. Probably. Ray Wiggins is no
5 longer with the company. And the reason
6 we're sure, he left before Thompson was
7 employed. He probably didn't work over into
8 2004. I'm not sure exactly when he left.

9 Q. Okay. Is there anything about
10 this document that you can say definitively
11 that this is a 2003 report rather than a
12 2004 report?

13 MR. BROUGHTON: On the document
14 itself. He's already testified how he knows
15 that it's a 2003 document. You're asking on
16 the document?

17 MR. PENICK: Yes.

18 A. Not on the document itself, no.

19 Q. But your testimony here today is
20 that you pulled this out of the 2003
21 reports?

22 A. Correct.

23 Q. All right. And so on October the

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1 21st, 2003, according to your testimony, the
2 truck had eight hundred and --

3 MR. BROUGHTON: November the 21st.

4 Q. I'm sorry. November the 21st,
5 2003, according to your testimony, the truck
6 had eight hundred and eighty-three thousand
7 six hundred and fifty-seven miles on it?

8 A. I think that would actually be six
9 seventy-two.

10 Q. Okay. Eight hundred and
11 eighty-three thousand six seventy-two. Is
12 that right?

13 A. At the time it was fueled, yes, it
14 appears when he turned in this log. And I
15 can only assume this was after he made his
16 trip. The ending reading was eight eight
17 three six seventy-two. That's the same.
18 I'm sorry. That's the same figure, yes,
19 sir.

20 Q. Do you know what the mileage was
21 that Thompson indicated was on the truck at
22 the time of the accident?

23 A. I don't remember specifically. It

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1 is on the same form as this that you have
2 where he fueled it. I believe it was on
3 September the 1st.

4 MR. BROUGHTON: Did you mark that
5 as an exhibit? I can't remember if you did
6 or not.

7 MR. PENICK: Yes, we did.

8 Q. And what mileage do you recall
9 being on the truck at that time?

10 A. I don't recall specifically. But
11 it would be a mileage approximately five
12 thousand miles greater than the last mileage
13 that Mr. Ray Wiggins logged on November 21st
14 of '03.

15 Q. How often do you have brakes
16 repaired, how many miles, if you know?

17 A. I'm not sure. But I think the
18 answer to that question is brakes are
19 repaired as needed.

20 Q. How long would the brake shoes
21 last before they had to be replaced?

22 A. I'm not sure.

23 Q. Okay. Do you see any adjustment

24 (Pages 93 to 96)

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<p>1 -- Well, first of all, do you know whether 2 or not the brakes are adjusted at the time 3 the brakes shoes are put on? 4 A. I don't know. But that would 5 certainly be a reasonable assumption. 6 Q. Okay. Do you know whether or not 7 there was any other adjustment of the brakes 8 after October 21st, 2003? 9 A. I'm not aware of any. 10 Q. Do you know whether or not any 11 driver of truck 11 had reported to you any 12 problems with that truck? 13 A. I have no knowledge of any 14 reported problems. 15 Q. Are you aware of whether or not 16 that truck has ever been cited for any 17 safety violations? 18 A. I'm not aware of any. 19 Q. Do you know whether or not the 20 truck was in compliance with DOT regulations 21 with regard to its reflectors and lights? 22 A. Would you restate that again. 23 Q. Do you know whether or not truck</p>	<p>1 for what was referred back to you from 2 Scotty Carol and Neal Thompson and Bill 3 Tidwell? 4 A. Do I have knowledge -- 5 MR. BROUGHTON: He's not asking 6 you for any knowledge you got from any 7 discussion with your attorney. That's 8 privileged. 9 A. From -- Regarding knowledge from 10 the accident scene, I believe that pretty 11 much pinpoints -- I don't recall of anybody 12 outside that group you mentioned. 13 Q. And I'm speaking in terms of some 14 insurance people, the worker's comp 15 insurance person and the liability insurance 16 person. Have you talked to them about it? 17 A. The worker's comp, a very limited 18 -- Certainly the only aspect of this that 19 they're -- were really concerned about was 20 the claims that were filed on worker's comp 21 filed by Thompson and Tidwell. 22 So as far as speaking directly 23 with them about the accident, you know, I do</p>
Page 98	Page 100
<p>1 11 was in compliance with DOT regulations 2 with respect to what is called constituency 3 (spelled phonetically) of the taping and the 4 lights, reflectors and so forth? 5 A. I have no reason to believe that 6 it was not in compliance. 7 Q. Do you know whether or not it was 8 in compliance with respect to its lighting? 9 A. I have no reason to believe that 10 it was not in compliance. 11 Q. Anybody report to you any problem 12 with the lights other than what we've 13 discussed so far on the July 5th, 2004 14 repair? 15 A. Not to my recollection. 16 Q. Are you aware of any other 17 maintenance on this vehicle other than what 18 we've talked about that occurred within a 19 year of this accident? 20 A. None that I can recall. 21 Q. Let me make sure we've got this 22 last question correct. You don't have any 23 knowledge about the accident itself except</p>	<p>1 recall representatives from the insurance 2 company shortly after coming and gathering 3 facts and documents and that sort of thing. 4 Q. Did they -- Are you aware of any 5 report that the -- that your liability 6 insurance carrier has written? 7 A. I'm not familiar with what they 8 put in the file. 9 Q. Are you aware of any photographs 10 that the liability insurance carrier may 11 have taken? 12 A. I'm aware that photographs were 13 made on the cargo. The trailer involved, a 14 representative of the carrier for the cargo 15 insurance came on site. And I don't believe 16 I was in the shop that day. And I believe 17 he made photographs. But I don't have them. 18 Q. When you said came on site -- 19 A. He came to look at the trailer. 20 It was in our yard. 21 Q. Was the trailer still loaded at 22 the time he saw it? 23 A. No, sir. I don't think anything</p>

25 (Pages 97 to 100)

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APPLICATION FOR EMPLOYMENT

(PRE-EMPLOYMENT QUESTIONNAIRE) (AN EQUAL OPPORTUNITY EMPLOYER)

PERSONAL INFORMATION

DATE

8-6-4

NAME

Thompson Edward Neil

SOCIAL SECURITY NUMBER

41788-9319

PRESENT ADDRESS

3033 St Hwy 85

Geneva

STATE

IL 36340

PERMANENT ADDRESS

STREET

CITY

STATE

ZIP

PHONE NO.

(734) 684-3945

ARE YOU 18 YEARS OR OLDER?

Yes ☒ No ☐

ARE YOU PREVENTED FROM LAWFULLY BECOMING EMPLOYED IN THIS COUNTRY BECAUSE OF VISA OR IMMIGRATION STATUS?

Yes ☐No ☒

EMPLOYMENT DESIRED

POSITION

Truck Driver

DATE YOU CAN START

9-1-4

SALARY DESIRED

ARE YOU EMPLOYED NOW?

y/s

IF SO MAY WE INQUIRE OF YOUR PRESENT EMPLOYER?

not yet

EVER APPLIED TO THIS COMPANY BEFORE?

NO

WHERE?

WHEN?

REFERRED BY:

EDUCATION	NAME AND LOCATION OF SCHOOL	*NO OF YEARS ATTENDED	*DID YOU GRADUATE?	SUBJECTS STUDIED
GRAMMAR SCHOOL	James H Mulkey Grammar	6	yes	
HIGH SCHOOL	Geneva High Geneva	5	NO	
COLLEGE				
TRADE, BUSINESS OR CORRESPONDENCE SCHOOL				

GENERAL

SUBJECTS OF SPECIAL STUDY OR RESEARCH WORK

SPECIAL SKILLS

ACTIVITIES: (CIVIC, ATHLETIC, ETC.)

Hunting Fishing

EXCLUDE ORGANIZATIONS, THE NAME OF WHICH INDICATES THE RACE, CREED, SEX, AGE, MARITAL STATUS, COLOR OR NATION OF ORIGIN OF ITS MEMBERS.

U.S. MILITARY OR NAVAL SERVICE

NO

RANK

PRESENT MEMBERSHIP IN NATIONAL GUARD OR RESERVES

*This form has been revised to comply with the provisions of the Americans with Disabilities Act and the final regulations and interpretive guidance promulgated by the EEOC on July 26, 1991.

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DATE MONTH AND YEAR	NAME AND ADDRESS OF EMPLOYER	SALARY	POSITION	REASON FOR LEAVING
FROM 11-9 TO present	Dart Transit Logan Mn	Mileage	Truck Driver	Behome more
FROM 1-2000 TO 10-2003	McLane Dothan AL	Around 900.00 wk	Truck Driver	personal
FROM				
TO				
FROM				
TO				

WHICH OF THESE JOBS DID YOU LIKE BEST? McLane

WHAT DID YOU LIKE MOST ABOUT THIS JOB? Being home

REFERENCES: GIVE THE NAMES OF THREE PERSONS NOT RELATED TO YOU, WHOM YOU HAVE KNOWN AT LEAST ONE YEAR.

	NAME	ADDRESS	BUSINESS	YEARS ACQUAINTED
1	Jimmie Shires	Geneva AL	Self employed	41
2	C Lovett C Thompson	Geneva AL	Self employed	41
3	Buster Shiver	Geneva AL	Self employed	30

THE FOLLOWING STATEMENT APPLIES IN: MARYLAND & MASSACHUSETTS. (fill in name of state)
 IT IS UNLAWFUL IN THE STATE OF ALABAMA TO REQUIRE OR ADMINISTER A LIE DETECTOR TEST AS A
 CONDITION OF EMPLOYMENT OR CONTINUED EMPLOYMENT. AN EMPLOYER WHO VIOLATES THIS LAW SHALL BE
 SUBJECT TO CRIMINAL PENALTIES AND CIVIL LIABILITY.

IN CASE OF EMERGENCY NOTIFY C Lovette Thompson Geneva AL (334) 684-3945
 NAME ADDRESS PHONE NO.

I CERTIFY THAT ALL THE INFORMATION SUBMITTED BY ME ON THIS APPLICATION IS TRUE AND COMPLETE, AND I UNDERSTAND THAT IF ANY FALSE INFORMATION, OMISSIONS, OR MISREPRESENTATIONS ARE DISCOVERED, MY APPLICATION MAY BE REJECTED AND, IF I AM EMPLOYED, MY EMPLOYMENT MAY BE TERMINATED AT ANY TIME.
 IN CONSIDERATION OF MY EMPLOYMENT, I AGREE TO CONFORM TO THE COMPANY'S RULES AND REGULATIONS, AND I AGREE THAT MY EMPLOYMENT AND COMPENSATION CAN BE TERMINATED, WITH OR WITHOUT CAUSE, AND WITH OR WITHOUT NOTICE, AT ANY TIME, AT EITHER MY OR THE COMPANY'S OPTION. I ALSO UNDERSTAND AND AGREE THAT THE TERMS AND CONDITIONS OF MY EMPLOYMENT MAY BE CHANGED, WITH OR WITHOUT CAUSE, AND WITH OR WITHOUT NOTICE, AT ANY TIME BY THE COMPANY. I UNDERSTAND THAT NO COMPANY REPRESENTATIVE, OTHER THAN ITS PRESIDENT, AND THEN ONLY WHEN IN WRITING AND SIGNED BY THE PRESIDENT, HAS ANY AUTHORITY TO ENTER INTO ANY AGREEMENT FOR EMPLOYMENT FOR ANY SPECIFIC PERIOD OF TIME, OR TO MAKE ANY AGREEMENT CONTRARY TO THE FOREGOING.

DATE 8-6-4 SIGNATURE Eduard Neal Thompson

DO NOT WRITE BELOW THIS LINE

INTERVIEWED BY _____ DATE _____

REMARKS: _____

NEATNESS _____ ABILITY _____

HIRED: ☐ Yes ☐ No POSITION _____ DEPT. _____

SALARY/WAGE _____ DATE REPORTING TO WORK _____

APPROVED: 1. _____ 2. _____ 3. _____
 EMPLOYMENT MANAGER DEPT. HEAD GENERAL MANAGER

STATEMENT OF VIOLATIONS

§§391.25, 391.27

This form is to be completed at least once every 12 months.

DRIVER'S NAME Edward Neal Thompson

I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months. (If no violations, put NONE in the offense column.)

DATE OF CONVICTION	OFFENSE	LOCATION	COMMERCIAL MOTOR VEHICLE OR AUTOMOBILE
	<u>None</u>		

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

Edward Neal Thompson
DRIVER'S SIGNATURE8/13/04
DATENAME OF MOTOR CARRIER Florida Transformer, Inc.ADDRESS P.O. Box 507 DeFuniak Springs
CITYFL 32435
STATE ZIPScott Leary
HR MGR

REVIEWED BY: SIGNATURE

TITLE

Certificate of Review

To be certified by a motor carrier supervisor.

I have hereby reviewed the driving record of _____
in accordance with §391.25 and find that he/she: DRIVER'S NAME☒ Meets minimum requirements for safe driving.☐ Is disqualified to drive a commercial motor vehicle pursuant to §391.15.

Reason for disqualification: _____

**PLAINTIFF'S
EXHIBIT**SUPERVISOR'S SIGNATURE 3DATE 1/1

Distribution of Copy: Driver Qualification File with a copy of Motor Vehicle Driving Record attached.

ANNUAL VEHICLE INSPECTION REPORT

REPORT NUMBER	FLEET UNIT NUMBER
	11
DATE 12-29-03	

MOTOR CARRIER OPERATOR Florida TRANSformer	INSPECTOR'S NAME (PRINT OR TYPE) Chads Truck Repair
ADDRESS 4509 HWY 83 NORTH	THIS INSPECTOR MEETS THE QUALIFICATION REQUIREMENTS IN SECTION 393.19. X YES
CITY, STATE, ZIP CODE Defunick Springs FL 32433	VEHICLE IDENTIFICATION (VIN) AND COMPLETE <input type="checkbox"/> LIC. PLATE NO. <input checked="" type="checkbox"/> VIN <input type="checkbox"/> OTHER 1XP-5089X-0-SN376286
VEHICLE TYPE <input checked="" type="checkbox"/> TRACTOR <input type="checkbox"/> TRAILER <input type="checkbox"/> TRUCK <input type="checkbox"/> (OTHER)	INSPECTION AGENCY/LOCATION (OPTIONAL)

VEHICLE COMPONENTS INSPECTED			
OK	NEEDS REPAIR	REPAIRED DATE	ITEM
✓			1. BRAKE SYSTEM
✓			a. Service Brakes
✓			b. Parking Brake System
✓			c. Brake Drums or Rotors
✓			d. Brake Hose
✓			e. Brake Tubing
✓			f. Low Pressure Warning Device
✓			g. Tractor Protection Valve
✓			h. Air Compressor
N/A			i. Electric Brakes
N/A			j. Hydraulic Brakes
N/A			k. Vacuum Systems
✓			2. COUPLING DEVICES
✓			a. Fifth Wheels
✓			b. Pintle Hooks
✓			c. Drawbar/Towbar Eye
✓			d. Drawbar/Towbar Tongue
✓			e. Safety Devices
✓			f. Saddle-Mounts
✓			3. EXHAUST SYSTEM
✓			a. Any exhaust system determined to be leaking at a point forward of or directly below the driver/sleeper compartment.
✓			b. A bus exhaust system leaking or discharging to the atmosphere in violation of standards (1), (2) or (3).
✓			c. No part of the exhaust system of any motor vehicle shall be so located as would be likely to result in burning, charring, or damaging the electrical wiring, the fuel supply, or any combustible part of the motor vehicle.
✓			4. FUEL SYSTEM
✓			a. Visible leak
✓			b. Fuel tank filler cap missing
✓			c. Fuel tank securely attached
✓			5. LIGHTING DEVICES
✓			All lighting devices and reflectors required by Section 393 shall be operable.
✓			6. SAFE LOADING
✓			a. Part(s) of vehicle or condition of loading such that the spare tire or any part of the load or dunnage can fall onto the roadway.
✓			b. Protection against shifting cargo
✓			7. STEERING MECHANISM
✓			a. Steering Wheel Free Play
✓			b. Steering Column
✓			c. Front Axle Beam and All Steering Components Other Than Steering Column
✓			d. Steering Gear Box
✓			e. Pitman Arm
✓			f. Power Steering
✓			g. Ball and Socket Joints
✓			h. Tie Rods and Drag Links
✓			i. Nuts
✓			j. Steering System
✓			8. SUSPENSION
✓			a. Any U-bolt(s), spring hanger(s), or other axle positioning part(s) cracked, broken, loose or missing resulting in shifting of an axle from its normal position.
✓			b. Spring Assembly
✓			c. Torque, Radius or Tracking Components.
✓			9. FRAME
✓			a. Frame Members
✓			b. Tire and Wheel Clearance
✓			c. Adjustable Axle Assemblies (Sliding Subframes)
✓			10. TIRES
✓			a. Tires on any steering axle of a power unit.
✓			b. All other tires.
✓			11. WHEELS AND RIMS
✓			a. Lock or Side Ring
✓			b. Wheels and Rims
✓			c. Fasteners
✓			d. Welds
✓			12. WINDSHIELD GLAZING
✓			Requirements and exceptions as stated pertaining to any crack, discoloration or vision reducing matter (reference 393.60 for exceptions)
✓			13. WINDSHIELD WIPERS
✓			Any power unit that has an inoperative wiper, or missing or damaged parts that render it ineffective.
✓			List any other condition which may prevent safe operation of this vehicle.

INSTRUCTIONS: MARK COLUMN ENTRIES TO VERIFY INSPECTION: ☒ OK ☒ NEEDS REPAIR ☒ IF ITEMS DO NOT APPLY. ☒ REPAIRED DATE 10/3

CERTIFICATION: THIS VEHICLE HAS PASSED ALL THE INSPECTION ITEMS FOR THE ANNUAL VEHICLE INSPECTION REPORT IN ACCORDANCE WITH 40 CFR 205

PLAINTIFF'S
EXHIBIT